

REMARKS

Summary of the Office Action

Claims 39-56 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fuchigami et al. (U.S. Patent No. 6,160,953) (hereinafter "Fuchigami").

Summary of the Response to the Office Action

Applicants have amended each of independent claims 39, 43 and 50 in accordance with the helpful suggestions of Examiner James Fletcher and Primary Examiner Vincent F. Boccio during an Examiner Interview with Applicants' undersigned representative on April 30, 2004. Accordingly, claims 39-56 remain presently pending.

Examiner Interview on April 30, 2004

Applicants thank Examiner James Fletcher and Primary Examiner Vincent F. Boccio for the courtesies extended to Applicants' undersigned representative during an Examiner Interview held at the United States Patent and Trademark Office on April 30, 2004.

During this interview, Applicants' undersigned representative explained particular distinctions between the arrangements disclosed in the instant application and the applied reference to Fuchigami et al. (U.S. Patent No. 6,160,953) (hereinafter "Fuchigami"). The Examiners expressed agreement with these distinctions, particularly with Applicants' technical explanation that Fuchigami teaches that PCM data and single bit stream data are multiplexed together, while the instant application does not multiplex together its "second division units" that are respectively recorded with different recording methods.

However, the Examiners indicated they believed that additional language should be added to each of the independent claims 39, 43 and 50 in order to emphasize this distinction. Applicants' undersigned representative pointed out in response Applicants' position that the claims already recite that the first and second types of second division units are "recorded at different positions on the audio information recording area" and that no amendments were necessary in that regard. In response, the Examiners stated that their position is that even with a multiplexed arrangement, the respective division units of the applied art are "recorded at different positions on the audio information recording area."

Accordingly, Applicants undersigned representative reached agreement with the Examiners that independent claims 39, 43 and 50 could each be amended to recite at the end of the "wherein the plurality of second division units" clause that "the first type of second division unit and the second type of second division unit include the same content, and the first type of second division unit and the second type of second division unit are each contiguously recorded on the information record medium." As indicated on the corresponding Interview Summary form (Paper No. 13), the Examiners noted that this feature is disclosed in Fig. 10 of the instant application. Applicants respectfully submit that Fig. 10 is one example of such supporting disclosure.

During the interview, the Examiners expressed their initial belief that such an amendment would distinguish over the applied Fuchigami reference because of the "multiplexing" distinction discussed above, but they also noted that they would need to take further consideration in this regard upon Applicants' filing of a response.

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The Rejections under 35 U.S.C. § 102(b)

Claims 39-56 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fuchigami. Applicants respectfully submit that Fuchigami does not qualify as prior art under §102(b) because its issue date does not precede the filing date of the instant application. However, to the extent that it could have been applied under some other section of §102, it is respectfully traversed as follows.

Moreover, as discussed above, each of independent claims 39, 43 and 50 have been newly-amended in accordance with the helpful suggestions of Examiner James Fletcher and Primary Examiner Vincent F. Boccio during an Examiner Interview with Applicants' undersigned representative on April 30, 2004. However, to the extent that the rejection might be reapplied to the claims as newly-amended, they are respectfully traversed as follows.

As discussed above, Applicants' undersigned representative set forth during the Examiner Interview on April 30, 2004, that the applied Fuchigami reference teaches that PCM data and single bit stream data are multiplexed together, while the instant application does not multiplex together its "second division units" that are respectively recorded with different recording methods. See, for example, Figs. 1-2 and col. 13, line 57 – col. 15, line 41 of Fuchigami.

The Examiners expressed agreement regarding this distinction during the interview. However, the Examiners indicated they believed that additional language should be added to each of the independent claims 39, 43 and 50 in order to emphasize this distinction. Applicants' undersigned representative pointed out in response Applicants' position that the claims already recite that the first and second types of second division units are "recorded at different positions on the audio information recording area" and that no amendments were necessary. In response,

the Examiners stated that their position is that even with a multiplexed arrangement, the respective division units of the applied art are "recorded at different positions on the audio information recording area."

Accordingly, Applicants undersigned representative reached agreement with the Examiners that independent claims 39, 43 and 40 could each be amended to recite at the end of the "wherein the plurality of second division units" clause that "the first type of second division unit and the second type of second division unit include the same content, and the first type of second division unit and the second type of second division unit are each contiguously recorded on the information record medium." As indicated on the corresponding Interview Summary form, the Examiners noted that this feature is disclosed in Fig. 10 of the instant application. Applicants respectfully submit that Fig. 10 is one example of such supporting disclosure.

In an effort to expedite prosecution in this application, Applicants have opted to implement these particular claim amendments that were discussed during the Examiner interview on April 30, 2004. As noted above, during the interview, the Examiners expressed their initial belief that such amendments would likely distinguish over the applied Fuchigami reference because of the "multiplexing" distinction discussed above. Applicants respectfully submit that the applied art of record does not teach, or even suggest, this feature for reasons set forth above. Accordingly, it is respectfully submitted that the claims are now in condition for allowance at least because of these particular amendments to independent claims 39, 43 and 50.

Applicants respectfully assert that the rejection under 35 U.S.C. § 102(b) should be withdrawn because the applied references do not teach or suggest each feature of independent claims 39, 43 and 50. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every

element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Furthermore, Applicants respectfully assert that dependent claims 40-42, 44-49 and 51-56 are allowable at least because of their respective dependence upon independent claims 39, 43 or 50, and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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